

March 7, 2011

Via Email and Facsimile

The Honorable Patrick Leahy
The Honorable Chuck Grassley
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

**Re: Senate Judiciary Committee
March 9, 2011 Hearing on Oversight of the Department of Homeland Security**

Dear Chairman Leahy and Ranking Member Grassley:

The Sikh Coalition respectfully submits this letter to outline our concerns regarding the screening policies of the Transportation Security Administration (TSA) and their ability to keep America safe from another terrorist attack. Our hope is that these issues can be relayed to TSA and Department of Homeland Security (DHS) officials and documented for the record at the above-referenced hearing.

By way of background, the Sikh Coalition is the largest and most-staffed Sikh American civil rights organization in the United States. Followers of the Sikh religion—the fifth largest world religion—are distinguished by turbans and uncut hair and have experienced widespread discrimination in the post-9/11 environment on account of their appearance. Last June, we testified before the House Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties to discuss law enforcement policy in the context of air travel.¹ Our testimony focused on TSA policies that subject Sikh travelers to disparate rates of secondary screening at airports throughout the United States.

According to TSA, air travelers who wear religious headcoverings are subject to the “possibility of additional security screening, which may include a pat-down search of the head covering.”² Additional screening is justified, according to the TSA, “if the security officer cannot reasonably determine that the head area is free of a detectable threat item,”³ even after a traveler passes through a screening device without incident. These guidelines were formally adopted by TSA in 2007. In practice, instead of being subject to the ‘possibility’ of random additional screening, Sikh travelers at airports around the country consistently report that they are subjected to additional screening 100 percent of the time, even after passing through security without triggering an alarm.

¹ See *Racial Profiling and the Use of Suspect Classifications in Law Enforcement Policy: Hearing Before the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the House Committee On the Judiciary*, 111th Cong. (2010) (statement of Amardeep Singh, Director of Programs, Sikh Coalition), available at http://judiciary.house.gov/hearings/printers/111th/111-131_56956.PDF and <http://judiciary.house.gov/hearings/pdf/Singh100617.pdf>.

² Transportation Security Administration, *Security Screening of Headcoverings*, available at http://www.tsa.gov/press/happenings/head_coverings.shtm.

³ Transportation Security Administration, *Religious and Cultural Needs*, available at http://www.tsa.gov/travelers/airtravel/assistant/editorial_1037.shtm.

After the failed Christmas 2009 terrorist attack aboard a Detroit-bound airliner, TSA has pushed for widespread deployment of Advanced Imaging Technology (AIT) machines, claiming that such machines “bolster security by safely screening passengers for metallic and non-metallic threats including weapons, explosives, and other objects concealed under layers of clothing”⁴ and that the use of such machines obviates the need for physical pat-downs.⁵ Unfortunately, these assertions do not comport with reality.

Despite the claim on TSA’s own website that AIT machines can locate threat items concealed beneath layers of clothing,⁶ TSA has advised our organization that Sikh travelers should expect to undergo secondary screening 100 percent of the time, even after passing through AIT machines, purportedly because such machines cannot penetrate the cotton fabric of a standard Sikh turban. **This is a serious factual discrepancy affecting both national security and civil liberties, and it must be explored by Congress.** The American people should understand the capabilities and limitations of the machines that the TSA is employing to keep America safe.

This discrepancy between the TSA’s public pronouncements and what it has told Sikh American groups behind closed doors not only raises questions about the efficacy of AIT machines but also stigmatizes the Sikh American community in ways that reinforce stereotypes of the sort that underlie substantially all of the challenges that our misunderstood community continues to face in the post-9/11 environment.

In light of the foregoing concerns, we respectfully request that you and your colleagues pose the following questions to DHS officials who testify at the above-referenced hearing:

- (1) If AIT machines are powerful enough to detect metallic and non-metallic threat items concealed under layers of clothing, why are Sikh travelers subjected to additional screening even after passing through AIT machines without triggering an alarm?
- (2) Will DHS undertake an independent audit of TSA screening practices to demonstrate that its screeners do not engage in profiling on the basis of race, ethnicity, nationality, or religion?
- (3) Will DHS and TSA allow civil rights organizations, such as the Sikh Coalition, to consult with these agencies on the development of new screening technologies to ensure that individuals who wear religious headcoverings are not singled out for mandatory pat-down screenings?

⁴ See *International Aviation Screening Standards: Hearing Before the Senate Subcommittee on Aviation Operations, Safety and Security of the Senate Committee on Commerce, Science, and Transportation*, 111th Cong. (2010) (statement of David Heyman, Assistant Secretary, U.S. Department of Homeland Security, Office of Policy, and Vicki Reeder, Director of Global Compliance, Transportation Security Administration, Office of Global Strategies), available at http://www.tsa.gov/assets/pdf/120210_dhs_international_aviation_security_senate_commerce.pdf.

⁵ See *Securing America’s Transportation System: Hearing Before the House Subcommittee on Transportation Security and Infrastructure Protection of the House Committee on Homeland Security* (2010) (statement of John S. Pistole, Administrator, Transportation Security Administration) (“AIT safely and effectively screens passengers for both metallic and non-metallic threats, including weapons and explosives, without physical contact.”), available at http://www.tsa.gov/assets/pdf/092310_house_homeland_hearing.pdf.

⁶ See Transportation Security Administration, *How it Works: Advanced Imaging Technology*, available at http://www.tsa.gov/approach/tech/ait/how_it_works.shtm.

We appreciate the opportunity to express our concerns. Please let us know if you require additional information, and please accept our gratitude for your consideration.

Respectfully yours,

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cc: Members of the Senate Judiciary Committee